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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/720,393	11/25/2003	Gon Kim	K-0563	4280
34610	7590	12/13/2006		
FLESHNER & KIM, LLP P.O. BOX 221200 CHANTILLY, VA 20153			EXAMINER PATEL, RITA RAMESH	
			ART UNIT 1746	PAPER NUMBER

DATE MAILED: 12/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/720,393

Applicant(s)

KIM ET AL.

Examiner

Rita R. Patel

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 28 September 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-21 is/are pending in the application.
- 4a) Of the above claim(s) 1-5 and 13-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 6-12 and 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 25 November 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

Priority

Acknowledgement has been made of applicant's claim for priority under 35 U.S.C. 119. This application claims the benefit of Korean Application No. P 2002-75037 filed on November 28, 2002.

Election/Restrictions

Claims 1-5 and 13-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected apparatus for controlling a door, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in the reply filed on 9/28/06.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

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Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 6-8 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-5 of copending Application No. 11/088,718. Although the conflicting claims are not identical, they are not patentably distinct from each other because both sets of claims require a method of controlling the opening and closing of a door of a washing machine by sensing the water level therein.

This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-12 and 16-21 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. In claim 6 applicant claims "sensing a water level" however fails to disclose means of how the water level is sensed in the washing tub; a reasonably broad interpretation of such a limitation may read on a human performing the act of visually observing a washing machine water level rise. Similarly, in claim 16, applicant claims "check whether a power is applied to the washing machine", however, there is no limitation which decrees how this method step is

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performed; the power on/off of the machine may dually be checked by the user, for example, the user may check to see if the machine is plugged into a power outlet. All of these claims incorporate claim language that may be performed by the user and thus reduces the requirement of the method to be performed by the apparatus solely.

Applicant fails to clearly delineate the subject matter of the invention that is performed by the apparatus, namely the method steps that are performed by the apparatus and the means by which these functions are performed.

Moreover, regarding claims 7, 10-12, 16, 18, and 21, the phrase "if" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention. See MPEP § 2173.05(d). For the purposes of examination, it is noted and emphasized that the limitations following the term "if" is not required by the claims but merely a suggestion of a method step that may occur in the case that such a limitation transpires. For example, in claim 7 applicant claims "the door is locked if the sensed water level is higher than the reference" and "the door is unlocked if the sensed water level is lower than the reference"; however, it is not required by the claims that the water level is higher than the reference or lower than the reference.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

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(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 6-11 are rejected under 35 U.S.C. 102(e) as being anticipated by Bao.

Bao teaches a washing machine with a safety function to prevent the release of water and the like. The safety function locks the door of the washing machine when the machine is filled with water. Specifically, a pin locks the door and prevents the door from opening when water is within the machine (Abstract). By pressing down the start button, the electronic panel will operate the gear box in accordance with a pre-determined process to drive the drum to rotate clockwise and then counter-clockwise and giving out at the same time the simulated splashing sound of water. The lamp on the operation panel also begins flashing rhythmically. The drum stops rotating while the flashing of the lamp continues amidst the sound of a siren to indicate to the child that the laundry process has been completed and that the door can be opened to drain the water (col. 1, lines 58-67; col. 2, lines 1-3). Bao's invention reads on applicant's method claims for sensing a water level in a tub, comparing the water level to a reference, and locking or unlocking the door accordingly; Bao's washing machine senses a water level in the machine when the start button is pressed and washing functions begin, whereby the water level is compared to the empty (reference) level until is it filled as desired with washing water. The door of Bao is locked when water increases from the reference level (empty, waterless level) to when any amount of water has been added thereto.

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Bao's disclosure of the flashing lamp indicates when the machine is locked (lights are off) and when the machine is ready to be unlocked (lights are flashing). Moreover, a person may manually check whether the power is applied to the machine by seeing if it is plugged or unplugged.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 9-12 and 16-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bao.

Bao fails to state a step of checking whether power is applied to the washing machine, however, it would have been obvious to one of ordinary skill in the art at the time of Bao's invention to configured it for checking if the power is applied when running the machine. Inherently, the washing machine of Bao checks if the power is applied when the user presses the start button" despite Bao's failure to specifically state this step. Bao's machine checks for power availability in order to operate, conversely, if there is no power then the machine will not operate. One of ordinary skill in the art would find a program loop for checking to see if the power is on to be an obvious action performed by Bao's machine once the start button is pressed by the user.

Applicant's "if-then" claim language does not clearly provide positive recitation for the features described thereafter the "if" statement. For example, in claim 10 applicant claims "if the power is not applied, the door is locked and...if the power is applied, it is checked whether the washing tub is rotating", this claim language does not require the power being off, it may be powered on all the time. In arguendo, if the power is not applied, the door of Bao may be locked; this is an apparent method step if the Bao machine had just completed a washing cycle but then before unlocking the machine was turned off or powered off, because the Bao machine would thus be locked since it was in operation and powered off. Similarly, when the Bao machine is turned on by pushing on the start button (power is applied), it would have been obvious to one of ordinary skill in the art at the time of the invention to check if the tub is rotating because a rotating tub would necessitate a locked door to keep items secured within the machine. Ensuring safety measures in the case of a power failure is known in the art for achieving the same safety measures utilized when operating the machine on full power; these features include but are not limited to, preventing the door from being opened prematurely, keeping articles and liquid from falling out, and preventing user from injury during rotation of the tub if user was putting in articles to be washed, or removing them.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Fukai (US Patent No. 7,111,478). Fukai teaches a washing

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machine with a drum locking device to prohibit the door from being opened during washing, as well as, detecting signals that are inputted from a level sensor for detecting the level of water in the tub (Abstract; col. 9).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Rita R. Patel whose telephone number is (571) 272-8701. The examiner can normally be reached on M-F: 8-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Rita R. Patel



MICHAEL BARR
SUPERVISORY PATENT EXAMINER